

THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

U.S. BANK NATIONAL ASSOCIATION, :  
AS TRUSTEE FOR RESIDENTIAL :  
ASSET SECURITIES CORPORATION, :  
HOME EQUITY MORTGAGE ASSET- :  
BACKED PASS-THROUGH :  
CERTIFICATES, SERIES 2005-KS11, :

Plaintiff, :

v. :

DONALD B. RICHELLE, :

Defendant. :

3:18-CV-971  
(JUDGE MARIANI)

ORDER

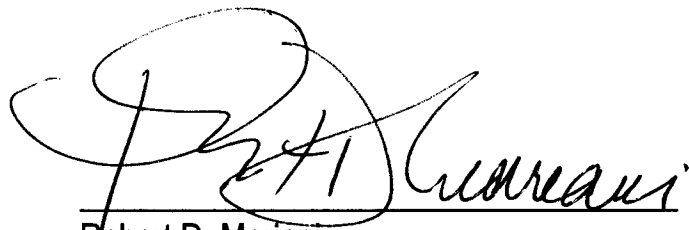
AND NOW, THIS 15<sup>th</sup> DAY OF MARCH, 2019, upon *de novo* review of  
Magistrate Judge Schwab's Report and Recommendation ("R&R") (Doc. 15), IT IS  
**HEREBY ORDERED THAT:**

1. *Pro se* Defendant's Objections (Doc. 16) are **OVERRULED**. *Pro se* Defendant's arguments do not vitiate the well-grounded findings in the R&R that this Court does not have original jurisdiction over this action such that removal would be proper. This state court mortgage foreclosure action was brought under Pennsylvania law. No federal question is presented which would provide a basis for federal question jurisdiction. *Pro se* Defendant's contention that Plaintiff's actions in seeking foreclosure implicate due process under the Constitution does not transform this action into one based on federal question jurisdiction, as it is the Plaintiff's "statement

of his own cause of action" that determines whether the action is brought under federal law. (Doc. 15 at 4 (quoting *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009)).

And *pro se* Defendant is a resident of Pennsylvania, making it improper to remove this case solely based on diversity jurisdiction under 28 U.S.C. § 1441(b)(2).

2. The R&R (Doc. 15) is **ADOPTED** for the reasons set forth therein.
3. Plaintiff's motion for remand to the Court of Common Pleas of Luzerne County (Doc. 4) is **GRANTED**. The above-captioned matter is **REMANDED** to the Court of Common Pleas of Luzerne County.
4. *Pro se* Defendant's motion to dismiss (Doc. 3) is **DENIED**.
5. Plaintiff's motion for an extension of time to respond to *pro se* Defendant's motion to dismiss (Doc. 6) is **DENIED AS MOOT**.
6. The Clerk of Court is directed to **CLOSE** the case.

A handwritten signature in black ink, appearing to read "R. D. Mariani", written over a horizontal line.

Robert D. Mariani  
United States District Judge